Exhibit I

Before the Industrial Accident Commission
of the State of California

Claim No. 62 SJ 8761

Joseph I. Moreali,
Applicant,
vs.
Lowell Foods, Inc. and State Compensation Insurance Fund,
Defendants.

FINDINGS AND AWARD
and
ORDER DENYING LIEN CLAIMS

Upon hearing before Alvin L. Dove, Referee, and submission, said Referee now makes his Findings and Award and Order as follows:

FINDINGS OF FACT

1. Joseph I. Moreali, applicant, born December 1, 1923, while employed as a butcher by Lowell Foods, Inc., insured by State Compensation Insurance Fund, on June 16, 1962, sustained injury to the left foot arising out of and occurring in the course of said employment.

2. There is no temporary disability indemnity due applicant as time lost from work did not exceed the normal 7 day waiting period.

3. Disability following the operation of July 31, 1962, was not a result of the injury herein.

4. Applicant is entitled to reimbursement for self-procured medical expenses incurred to cure or relieve the results of the injury herein beginning June 16, 1962, up to July 31, 1962, in an unknown amount to be adjusted by the parties, if such costs have not yet been paid by the defendant carrier. Applicant is not entitled to reimbursement for any medical costs incurred after July 31, 1962.

5. The evidence does not establish that applicant is presently in need of further medical care and treatment to cure or relieve the results of the injury herein.

6. Applicant is entitled to reimbursement for medical-litigation expense reasonably, actually, and necessarily incurred for the testimony of Dr. Josephson in the sum of $50.00, payable to Johnson, Thorne, Speed and Bamford, applicant's attorneys.

7. Lien claims of State of California, Department of Employment, and of California Physicians Service must be denied.

8. No finding will be made on attorney's fee unless requested.

AWARD

Award is made in favor of Joseph I. Moreali against State Compensation Insurance Fund of:

(a) Reimbursement for self-procured medical expenses incurred to cure or relieve the results of the

injury herein for the period June 16, 1962, up to July 31, 1962, in an unknown amount to be adjusted by the parties.

(b) Reimbursement for medical-litigation expense incurred in the sum of $50.00 for the testimony of Dr. Josephson, payable to Johnson, Thorne, Speed and Bamford, applicant's attorneys.

ORDER

It Is Hereby Ordered that lien claim of State of California, Department of Employment filed herein be and the same is hereby denied.

It Is Further Ordered that lien claim of California Physicians Service filed herein be and the same is hereby denied.

Service on: Mar 29, 1963

Alvin L. Dove, Referee
Industrial Accident Commission

State of Calif., Dept. of Empl., P.O. Box 637, San Jose

California Physicians Service, 450 Mission St., San Francisco

Joseph I. Moreali, 501 Raymond Ave., San Jose

Johnson, Thorne, Speed and Bamford, Attorneys-at-Law, 481 N. 1st St., San Jose

Lowell Foods, Inc., 2277 Alum Rock Avenue, San Jose

State Compensation Insurance Fund, 525 GG Ave., San Francisco

Anna Jones

ALD/AJ 8761

Exhibit II

Before the Industrial Accident Commission
of the State of California
Panel 1

Case No. SJ 8761

Joseph I. Moreali,
Applicant,
vs.
Lowell Foods, Inc. and State Compensation Insurance Fund,
Defendants.

OPINION AND ORDER

(Petition for Reconsideration)

Applicant, petitioner herein, contends that need for surgery was due to the industrial injury herein.

Based upon the opinion of Dr. Josephson, treating physician and operating surgeon, it is the conclusion of the Panel that surgery was for a condition in no way affected by or caused by the industrial injury herein (see Allied Compensation Insurance Company v. Industrial Accident Commission (Etkins) 28 CCC 11).

Since the Answer raises no new issues, the Reply thereto is surplusage.

For the Foregoing Reasons,

It Is Ordered that applicant's Reply to Answer to Petition for Reconsideration, filed herein May 9, 1963, be, and the same hereby is, stricken from the record.

It Is Further Ordered that Appellant's Petition for Reconsideration, filed herein April 18, 1963, be, and the same hereby is, denied.

Industrial Accident Commission
of the State of California

Dated at San Francisco, California,
May 13, 1963.

Service: May 15, 1963—S.F.—JMF

Department of Employment—Box 637, S.J.

Calif. Physicians Service—450 Mission St., S.F.

Joseph I. Moreali—501 Raymond Ave., San Jose

Johnson, Thorne, Speed & Bamford—481 N. 1st St., San Jose, Calif.

Lowell Foods, Inc.—2277 Alum Park Ave., San Jose, Calif.

State Compensation Insurance Fund—Personal Service

Before the Industrial Accident Commission
of the State of California

Case No. 62 SJ 8761

Joseph I. Moreali,
Applicant,
vs.
Lowell Foods, Inc. and State Compensation Insurance Fund,
Defendants.

REPORT AND RECOMMENDATION ON PETITION FOR RECONSIDERATION

Applicant's attorney has filed a vituperative petition for reconsideration herein.

Substantially, the facts are simple and as follows: Applicant, a butcher, alleged he stubbed his left big toe joint against a board on June 16, 1962. The evidence revealed that by the time he saw Dr. James Josephson, Orthopedist, on July 25, 1962, the superficial results from the bumping had largely healed. However, there was a congenital deformity for which the Doctor operated. Residuals from the injury did not cause the need for operation, nor light up the difficulty. The Doctor specifically informed applicant of this *before* he operated. By the time he did operate, ten days later, on July 31, 1962, there were no residuals of injury.

The Referee found injury, and awarded reimbursement for medical care to July 31, 1962. No time over seven days had been lost from work because of injury prior to the operation so no temporary disability indemnity was awarded. Medical reimbursement or other compensation for periods following the operation was denied.

Authority for the finding and order was found in Allied Comp. Ins. Co. vs IAC and Etkins 28 ccc 11, decided by the 2nd District Court of Appeal, Division Two, January 15, 1963.

The Referee does not further feel it necessary to answer Mr. Johnson's tirade. It is suggested that, for the best interests of this Commission, its Referees and the members of the Medical Profession who are often forced to appear before us, that Mr. Johnson be warned of the Commission's power, as that of any other Court, to punish for contempt, and request that Mr. Johnson, in the future, keep his language within reasonable bounds.

Recommendation:

It is recommended that it be found, based on the reasonable evidence, the decision as rendered is correct, and that the petition for reconsideration be denied.

/s/ Alvin L. Dove
Alvin L. Dove, Referee

ALD/AJ